UNITED
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15 April 1991

ORIGINAL: ENGLISH

COMMISSION ON TRANSNATIONAL CORPORATIONS
Seventeenth session
10-19 April 1991
Agenda item 14

ADOPTION OF THE REPORT OF THE COMMISSION ON ITS SEVENTEENTH SESSION

Draft report

Rapporteur: Andrew G. BANGALI (Sierra Leone)

ORGANIZATION OF THE SESSION

Chapter ___

A. Opening and duration of the session

1. The Commission on Transnational Corporations held its seventeenth session at United Nations Headquarters from 10-19 April 1991. The Commission held _____ meetings (1st to _____).

2. The session was opened by the Vice-Chairman of the sixteenth session, Mr. Adian Silalahi (Indonesia).

B. Attendance

3. The following States members of the Commission attended the session: Argentina, Bangladesh, Belgium, Brazil, Bulgaria, Chile, China, Colombia, Costa Rica, Cuba, Cyprus, Czechoslovakia, Egypt, France, Gabon, Germany, Ghana, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Japan, Mexico, Netherlands, Norway, Pakistan, Peru, Philippines, Poland, Republic of Korea, Romania, Sierra Leone, Switzerland, Tunisia, Union of Soviet Socialist

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Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Zaire, Zambia and Zimbabwe.

4. The following expert advisers attended the session: José Maria Basagoiti (Mexico), Antonio Colombo (Italy), Chakufwa Chihana (Malawi), Peter Frerk (Germany), Gosta Karlsson (Sweden), Laurence McQuade (United States of America), Karl-Erik Onnesjo (Sweden), Sylvia Ostry (Canada), Rudolph Oswald (United States of America), Oscar Schachter (United States of America), Oswaldo Sunkel (Chile), Wang Linsheng (China) and Nikolai G. Zaitsev (Union of Soviet Socialist Republics).

5. The following States Members of the United Nations were represented by observers: Canada, Finland, Guatemala, Hungary, Jamaica, Mali, Panama, Spain, Sweden, Turkey, Uganda, Venezuela and Yugoslavia.

6. The World Food Council was represented by an observer.

7. Representatives of the United Nations Conference on Environment and Development and of the United Nations Conference on Trade and Development also attended the session.

8. The following specialized agencies were represented: International Labour Organisation, United Nations Educational, Scientific and Cultural Organization, World Bank, United Nations Industrial Development Organization.

9. The following non-governmental organizations in consultative status with the Economic and Social Council, category I, were represented by observers: International Chamber of Commerce, International Confederation of Free Trade Unions, International Organisation of Employers, World Federation of Trade Unions.

C. Election of officers

10. At its 1st and 2nd meetings, on 10 April, the Commission elected the following officers by acclamation:

Chairman: José María Borbón (Costa Rica)

Vice-Chairmen: José Lino B. Guerrero (Philippines)
Ole Kristian Holthe (Norway)
Misu Negritoiu (Romania)

Rapporteur: Andrew G. Bangali (Sierra Leone)

D. Agenda and organization of work

11. At its 1st meeting, on 10 April, the Commission adopted its provisional agenda, contained in document E/C.10/1991/1 (see annex I).

12. At the same meeting, the Commission approved the organization of work of the session as set out in document E/C.10/1991/L.2, as orally amended.

13. Also at the same meeting, the Commission took note of the information regarding expert advisers, contained in document E/C.10/1991/16.

14. At its 6th meeting, on 12 April, the Commission appointed the following Friends of the Rapporteur: Bagas Hapsoro (Indonesia), Tehmina Janjua (Pakistan), Albert Muchanga (Zambia), Jorge Osella (Argentina), Wojciech Ponikiewski (Poland) and Peter van Rens (Netherlands).

E. Documentation

15. The documents before the Commission at its seventeenth session are listed in annex II.

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ADOPTION OF THE REPORT OF THE COMMISSION ON ITS SEVENTEENTH SESSION

Draft report

Addendum

Rapporteur: Andrew G. BANGALI (Sierra Leone)

Chapter ____

RECENT DEVELOPMENTS RELATED TO TRANSNATIONAL CORPORATIONS AND INTERNATIONAL ECONOMIC RELATIONS

1. The Commission considered item 3 of its agenda at its 1st to 4th meetings, on 10 and 11 April 1991. It had before it the report of the Secretary-General on the triad in foreign direct investment (E/C.10/1991/2).

2. In his opening statement, the Executive Director of the United Nations Centre on Transnational Corporations said that foreign direct investment had emerged as one of the key variables shaping international economic relations and world development. Global flows of foreign direct investment had increased far more rapidly than had world trade and output: between 1983 and 1989 the value of foreign direct investment flows had grown by 30 per cent a year versus only 9 per cent a year growth of world exports and 8 per cent growth of world output in current values. He pointed to widespread attempts by countries to attract foreign direct investment, but noted with concern the declining share of developing countries. Although flows of foreign direct investment to developing countries had increased in absolute terms by 78 per cent between the period 1980-1984 and 1985-1989, their share in total inflows had fallen from 25 per cent to 19 per cent. Moreover, the distribution

of those inflows remained highly concentrated, three quarters of the foreign direct investment flows to developing countries having gone to only 10 countries, of which only one was an African country.

3. Two interlinked forces were highlighted as having a profound impact on the global distribution of foreign direct investment inflows: the regionalization of markets and the increasingly tripolar structure of the international economic system, with Japan, the United States of America and the European Community forming the three poles of what was widely referred to as the "triad". The triad currently accounted for over four fifths of total outward foreign direct investment stock. About half of that had been invested in the triad itself. Although the triad had remained the focus of world-wide foreign-direct-investment activity, both inward and outward, the Executive Director noted that most developing countries were strongly linked to one or more triad members through foreign direct investment. Such linkages were due to either traditional historical and cultural links or the regional strategies of transnational corporations from the triad. In that regard, the Executive Director expressed concern that the majority of developing countries might be left out of the strategies of transnational corporations from the triad. That possibility was even more disturbing because foreign direct investment, trade, technology and financial flows were interlinked to a significant extent through transnational corporations. Therefore, marginalization in respect of foreign direct investment might also imply marginalization in terms of trade and technology transfer. The Executive Director called for coordinated policy measures by host and home countries and international institutions to correct the imbalance between developed and developing countries.

4. Most delegations shared the view that foreign direct investment had been emerging as an engine of growth. They pointed to the fact that foreign direct investment had grown much faster than trade and world output in the 1980s and that the role of transnational corporations as providers of capital, technology, access to export markets, and technical and managerial skills was a key factor in the economic development and competitiveness of countries. It was observed that foreign direct investment could play an important role in the restructuring of newly opened economies. It was noted that policy changes that created a more congenial environment for foreign direct investment by a wide spectrum of countries attested to the recognition of the potential role of transnational corporations as a significant determinant of development.

5. Many delegations addressed themselves to the finding of the report that world-wide foreign direct investment was dominated by the triad. That was due to a number of factors, including the strategic choices of transnational corporations propelled by the considerations of market size, technology and a stable economic and policy environment. Other factors included increased regionalization among developed countries, particularly in North America and Europe. Some delegations agreed with the conclusion of the report that the European Community might be properly considered a single home country for foreign direct investment, although one delegation called for further evidence in that regard. Many delegations were concerned with the finding that an increasing share of foreign direct investment was being located in the triad

and that there was the possibility of the further relative decline of developing countries. One delegation noted that while many developing countries were far from the triad, the actions of the triad had a direct impact on them, and expressed concern about the resultant gap in competitiveness between developed and developing countries. It was mentioned that the regional clustering of countries around the triad members must not become exclusionary groupings with the potential danger of division of markets among triad members and the exclusion of a large number of developing countries. However, some delegations felt that that issue warranted further research.

6. Many delegations noted with concern that despite the creation of a more congenial policy environment for foreign direct investment by many developing countries, their share remained low and showed a declining trend during the 1980s. They expressed concern about the concentration of foreign direct investment in the triad and in a small number of newly industrialized and resource-rich developing countries. Some delegations noted that the report had not adequately addressed the declining position of Latin America in the global distribution of foreign direct investment flows.

7. In the context of the declining share of foreign direct investment flows to developing countries, it was observed that many of those countries had opened their economies to foreign direct investment with the liberalization of investment codes, which included opening up more sectors, removal of restrictions on foreign ownership, guaranteed profit repatriation and provision of greater fiscal incentives as well as liberalization of foreign exchange and trade regimes, but those measures had not resulted in significant inflows of foreign direct investment. One delegation agreed that liberalization, while an important first step, was not in itself adequate to increase foreign direct investment in developing countries, and another pointed out the danger of "beggar thy neighbour" policies in offering greater incentives. Furthermore, it was noted that developing countries' problems were compounded by the competition resulting from the opening up of Eastern and Central Europe to foreign direct investment.

8. Many delegations noted that traditional means of attracting transnational corporations were no longer sufficient, and that emphasis needed to be placed on increasing domestic demand and improving human resources and infrastructure. Several delegations recognized the efforts of developing countries to integrate into regional groupings as an important strategy to attract foreign direct investment. Several delegations discussed their own Governments' efforts in the formation of regional markets.

9. Many delegations stressed the need for policies and incentive measures to be taken by home countries to encourage investment in developing countries. One delegation noted that such measures had already been taken with regard to investment in Eastern and Central Europe. Specific recommendations included measures to disseminate market information, assistance for technical and feasibility studies, financial and fiscal incentives by home countries, and trade liberalization.

10. In addition to home country policies, many delegations stressed the need for developed countries to facilitate changes in the external economic environment affecting foreign direct investment inflows to developing countries. Specifically, that called for a reduction in protectionism, debt forgiveness, increased official development assistance and removal of restrictions on outflows of capital and technology. Some delegations called for special attention to be paid to the least developed countries. A number of delegations mentioned the importance of improvement in the investment climate in developing countries.

11. One delegation disagreed that developing countries were being marginalized, pointing out that as a group they had increased their exports in recent years, that they had maintained or increased their share of world trade and that absolute volume of foreign direct investment flows to these countries had increased. The same delegation said that only those countries that had suffered internal conflicts or had non-market economies might continue to experience marginalization. Another delegation observed that the absolute amount of foreign direct investment going to developing countries had risen and that developing countries could find new opportunities in the globalization strategies of transnational corporations from the triad, which implied a continual search for new markets and production locations, as well as opportunities in the growth of outward foreign direct investment from non-triad countries.

12. Several delegations from developed countries also described measures their Governments had taken to encourage investment in developing host countries. One delegation from a developed country noted that its Government had entered into numerous bilateral investment treaties in order to promote outward foreign direct investment. Other measures described by delegations included technical assistance and feasibility studies, the granting of preferential interest rates and financial guarantee systems. Some delegations described new programmes instituted by their Governments involving the creation of regional funds to stimulate joint ventures between firms from developed countries and those in developing countries.

13. Some delegations from Central and Eastern European countries expressed concern about the concentration of foreign direct investment in the triad. They also elaborated on the measures taken by their Governments to integrate their States into the world economy and encourage foreign direct investment, including major changes in investment laws, exchange regulations and privatization of state enterprises.

14. Noting that foreign direct investment was an engine of growth, several delegations raised the issue of governance, calling for additional action to address imbalances in the world-wide distribution of foreign direct investment flows. Such action would have to be multi-level, involving national, regional, and international participation. Also noting the fact that no single country could regulate the activities of transnational corporations by itself, some delegations called for a set of multilateral disciplines to

ensure that activities of transnational corporations conformed to the development objectives of host countries. Several delegations also called for technical assistance in the area of infrastructure and human resource development to promote a better climate for foreign direct investment.

15. Many delegations expressed the view that the Centre should continue its work in collecting and analysing data on world stocks and flows of foreign direct investment, examining the role of transnational corporations in the world economy and identifying the reasons for the declining share of developing countries in world-wide foreign direct investment flows. They stated that future research should examine the role of foreign direct investment as an engine of world-wide economic growth and the interlinkages between foreign direct investment, trade, technology transfer and financial flows. Among the suggestions for future research made by one delegation were the economic impact of foreign direct investment on host countries, particularly with regard to industrial transformation, and human resources development. Delegations commended the report of the Secretary-General (E/C.10/1991/2).

16. In his concluding remarks, the Executive Director noted that the world was witnessing a fundamental change in the role of transnational corporations through their interactions with trade, investment, technology, financial flows and the environment. He observed that there was a need for further analysis and better understanding of that complex process, including the questions of how regionalization among developed countries was going to affect the distribution of foreign direct investment flows and the observed clustering of developing countries around one of the triad members in foreign direct investment relationship in order to formulate appropriate policy responses. With regard to the issue of marginalization of developing countries, he acknowledged that there was no simple answer. While those countries experienced an absolute increase in foreign direct investment inflows, the fact that their share had declined demonstrated a relative neglect of those countries by transnational corporations.

Action taken by the Commission

17. The Commission took note of the report of the Secretary-General on recent developments related to transnational corporations and international economic relations (E/C.10/1991/2) and commended the report for its analytical quality and choice of topical issues, which were helpful in facilitating policy-oriented discussions. It requested the Secretariat to continue its work on the subject in the light of the comments and suggestions made by delegations and to submit to the Commission at its eighteenth session reports dealing with trends in foreign direct investment and the role of transnational corporations in world development.

Presentations by expert advisers

18. The Commission heard presentations by three expert advisers on the subject of recent developments related to transnational corporations and international economic relations. One expert adviser, Mr. Oswaldo Sunkel, observed that, although there existed a causal relationship between growth and foreign direct investment, that relationship was not straightforward. The relationship occurred through the creation of additional capital formation; if the latter was productive, then foreign direct investment led to growth. But foreign direct investment did not necessarily increase capital formation. Foreign direct investment was the acquisition of assets in a foreign country; that might take the form of acquisition of existing assets, which did not necessarily contribute to economic growth. In fact, it was likely that most of the foreign direct investment boom of the 1980s was mainly investment of that kind. It was necessary to know what proportion was additional capital formation in order to ascertain whether there was any growth as a result of foreign direct investment. He noted that foreign direct investment needed to be measured in relation to the size of the receiving country. An apparently small amount might be a high proportion of gross domestic product (GDP) in some countries. Also, it was necessary to disaggregate foreign direct investment; for instance, whether it was mainly in services or manufacturing, for the local market or for export, whether it brought new technology to a country or not. The capital/output ratio for each of those types of foreign direct investment would be different and would have a different impact on the growth of the host country. It had not been clearly established that foreign direct investment definitely led to increased investment or exports in all countries.

19. An important factor behind the fact that foreign direct investment was low in developing countries and was highly concentrated was protectionism in the three poles of the triad, particularly in Japan. All three main members were highly protected, especially in agriculture and primary materials, but also in manufactures. A coalition of interests between developing countries and the affiliates of transnational corporations based there could contribute to a reversal of such protectionism.

20. In Latin America, a high proportion of foreign direct investment was forced by the mechanism of debt-to-equity swaps and much of that investment was closely linked to privatization of state enterprises under adjustment policies. Such foreign direct investment might benefit private firms but without necessarily benefiting the host country.

21. Ms. Sylvia Ostry, in her presentation, observed that there had been three phases of internationalization in the world economy since the Second World War:

(a) The emergence and development of relatively unfettered international trade linkages articulated through the multilateral framework of the General Agreement on Tariffs and Trade (GATT);

(b) An unplanned wave of financial integration, induced by accidents of the OPEC oil shocks, the Japanese and German surpluses in the 1970s and the 1980s and facilitated by the policies of President Ronald Reagan in the United States and Prime Minister Margaret Thatcher in the United Kingdom;

(c) In the mid-1980s, there had been the beginning of a new movement dominated by investment and technology flows, the agent of which was the transnational corporation.

22. The implications of the third wave were only beginning to be understood. To understand them, it was necessary to look at technology flows, the diffusion of research and development and the explosion of strategic alliances based on technology cooperation, which was even more concentrated in the triad than foreign direct investment: 97 per cent of strategic alliances were in the triad.

23. What that trend implied was a change in the nature of competition, not just among firms but also among systems. The ability to compete depended on the relationship between the firm and its environment, and that was taking the form of three dominant models: those of Japan, Europe and the United States. The differences among those models gave rise to a kind of friction, which the expert referred to as "system friction". The struggle for market share was a struggle for high technology. Those high-technology sectors depended on the system they operated in, so it was now the systems that were competing, not merely the firms.

24. Another important trend in the world of transnationals was the decline of the United States. The first wave of transnational corporations was 99 per cent American. Currently, there were other players on the scene. Moreover, there was asymmetry in the triad. It existed in trade, with different import propensities of the triad members causing friction, but the most striking asymmetry was in foreign direct investment, in which the most glaring imbalance existed in the case of foreign direct investment inflows to Japan.

25. There appeared to be a regionalization of foreign direct investment. In Europe, it was brought about by the 1992 European Community programme, in Japan by the yen shock and a strategic move of Japanese transnational corporations outwards, which also included a degree of concentration in Asia and in North America, with the United States/Canada and United States/Mexico relationships creating powerful investment linkages in the region.

26. The United States was no longer a multilateralist. It now followed a three-track policy in trade and investment involving bilateralism (i.e., its relationships with Canada and with Mexico); unilateralism (i.e., its 301 policies and Strategic Impediments Initiative) and multilateralism (its GATT activities).

27. Until the present time, trade liberalization had been a force for convergence. There was convergence of growth, of policies and of

technological capacities. The major reason for that convergence was the hegemony of the United States and the multilateral system. The question was whether current trends were a force for convergence or divergence in the world economy. Now there was a triad and no hegemon, a danger to the multilateral system and a new competitiveness paradigm. They might aggravate divergence among world economies.

28. Mr. Chakufka Chihana noted that the report of the Secretary-General on recent developments was rightly focused on the emergence of the triad as a dominant factor in global investment relationships. The declining share of developing countries in world foreign direct investment inflows was likely to be further aggravated by the regionalization policies pursued by the triad members as well as the corporate strategies of transnational corporations, most of which were located in the triad. The policy changes in developing countries were no longer sufficient to attract transnational corporations. Foreign direct investment was determined by a host of factors many of which were beyond the control of developing countries. Moreover, they had to compete among themselves for foreign direct investment inflows. One policy response that developing countries should pursue was to have their own regional arrangements. Most of the existing arrangements had not functioned effectively because of the lack of adequate political support. Such regional arrangements among developing countries should not be intended as a way to confront similar arrangements among developed countries, but as a means to enhance their own economic security. Moreover, developing countries should make every effort to ensure both political and economic stability.

29. At the end of the presentations, the expert advisers answered questions raised by delegations.

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Seventeenth session
10-19 April 1991
Agenda item 8

TRANSNATIONAL CORPORATIONS IN SOUTH AFRICA

Algeria*: draft resolution

The Commission on Transnational Corporations recommends to the Economic and Social Council the adoption of the following draft resolution:

Activities of transnational corporations in South Africa

The Economic and Social Council,

Recalling its resolution 1990/70 of 27 July 1990,

Having examined the report of the Secretary-General, 1/

Reaffirming the Declaration on Apartheid and its Destructive Consequences in Southern Africa adopted by the General Assembly at its sixteenth special session, 2/ which contains guidelines on how to end apartheid through genuine negotiations,

Mindful of its obligations towards the complete eradication of apartheid, reaffirmed in General Assembly resolution 44/244 of 17 September 1990,

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* On behalf of the African States and in accordance with rule 72 of the rules of procedure of the Economic and Social Council.

1/ E/C.10/1991/10.

2/ General Assembly resolution S-16/1, annex.

1. Reaffirms that Governments, entrepreneurs and enterprises have ethical, moral and political responsibilities to comprehensively deny sustenance to the apartheid system;

2. Reiterates its call upon all transnational corporations to stop immediately any operations in South Africa and all forms of trade and economic links with the racist minority regime;

3. Further reiterates its call upon all multilateral financial and development institutions to cease immediately any kind of support or other forms of collaboration with the racist regime in South Africa;

4. Requests the Secretary-General:

(a) To continue the useful work of collecting and disseminating information, in close cooperation with relevant organs of the United Nations, on the activities of transnational corporations in South Africa, including the list of transnational corporations still conducting operations there;

(b) To continue preparing studies on the level and form of operation by transnational corporations in South Africa, including their non-equity business arrangements and their involvement in particular sectors of the South African economy, and an updated study on the responsibilities of home countries with respect to the transnational corporations operating in South Africa in violation of relevant resolutions and decisions of the United Nations;

(c) To continue investigating the possibility of those transnational corporations without equity, non-equity, trading or other links in South Africa contributing to the training of South African entrepreneurs for a non-racial democratic South Africa;

(d) To report annually to the Commission on Transnational Corporations, the Economic and Social Council, the General Assembly and the Security Council on the implementation of the present resolution.

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COMMISSION ON TRANSNATIONAL CORPORATIONS
Seventeenth session
10-19 April 1991
Agenda item 8

TRANSNATIONAL CORPORATIONS IN SOUTH AFRICA

Algeria and Cuba*: Revised draft resolution

The Commission on Transnational Corporations recommends to the Economic and Social Council the adoption of the following draft resolution:

Activities of transnational corporations in South Africa

The Economic and Social Council,

Recalling its resolution 1990/70 of 27 July 1990,

Taking note of the report prepared by the United Nations Centre on Transnational Corporations, 1/

Reaffirming the Declaration on Apartheid and its Destructive Consequences in Southern Africa, adopted by the General Assembly at its sixteenth special session, 2/ which contains guidelines on how to end apartheid through genuine negotiations,

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* On behalf of the African States and in accordance with rule 72 of the rules of procedure of the Economic and Social Council.

1/ E/C.10/1991/10.

2/ General Assembly resolution S-16/1, annex.

Noting the evolving situation in South Africa,

Mindful of its obligations towards the complete eradication of apartheid, reaffirmed in General Assembly resolutions 44/244 of 17 September 1990 and 45/176 A of 19 December 1990,

1. Notes the evolving situation in South Africa, including the proposed repeal of the major apartheid laws, and urges the South African regime to incorporate compensatory mechanisms in land reforms in order to make the eradication of apartheid lasting and equitable;

2. Reaffirms that Governments, entrepreneurs and enterprises have responsibilities comprehensively to deny sustenance to the apartheid system;

3. Reiterates its call upon all transnational corporations to stop immediately any operations in South Africa and all forms of trade and economic links with the racist minority regime;

4. Further reiterates its call upon all multilateral financial and development institutions to cease immediately any kind of support or other forms of collaboration with the racist regime in South Africa;

5. Requests the Secretary-General:

(a) To continue the useful work of collecting and disseminating information, in close cooperation with relevant organs of the United Nations, on the activities of transnational corporations in South Africa, including the list of transnational corporations still conducting operations there;

(b) To continue preparing studies on the level and form of operation by transnational corporations in South Africa, including their non-equity business arrangements and their involvement in particular sectors of the South African economy, and an updated study on the responsibilities of home countries with respect to the transnational corporations operating in South Africa in violation of relevant resolutions and decisions of the United Nations;

(c) To continue examining possible contributions of transnational corporations to the construction of a non-racial democratic South Africa in the economic and social fields, taking into account the special need to train black South African entrepreneurs;

(d) To report to the Commission on Transnational Corporations at its eighteenth session, the Economic and Social Council, the General Assembly and the Security Council on the implementation of the present resolution.

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Agenda item 7 (b)

WORK RELATED TO THE CODE OF CONDUCT ON TRANSNATIONAL CORPORATIONS AND OTHER INTERNATIONAL ARRANGEMENTS AND AGREEMENTS: OTHER INTERNATIONAL, REGIONAL AND BILATERAL ARRANGEMENTS AND AGREEMENTS RELATED TO TRANSNATIONAL CORPORATIONS

Corrupt practices in international business transactions

United States of America: draft resolution

The Commission on Transnational Corporations,

Recalling General Assembly resolution 3514 (XXX) of 15 December 1975, in which the Assembly, inter alia, condemned all corrupt practices, including bribery, by transnational corporations and other corporations, their intermediaries and others involved, in violation of the laws and regulations of host countries, reaffirmed the right of any State to adopt legislation and to investigate and take appropriate legal action, in accordance with its national laws and regulations, for such corrupt practices, and called upon all Governments to cooperate to prevent corrupt practices, including bribery,

Recalling also Economic and Social Council resolution 1913 (LVII) of 5 December 1974, by which the Council decided to establish the Commission on Transnational Corporations to act, inter alia, to secure effective international arrangements within its mandate,

Recalling further the Declaration on International Economic Cooperation, in particular the Revitalization of Economic Growth and Development of the Developing Countries, adopted by the General Assembly at its eighteenth

special session, 1/ and the International Development Strategy for the Fourth United Nations Development Decade, 2/

Convinced that a stable and predictable environment for international business transactions is essential for the mobilization of investment, finance, technology, skills and other important resources across national borders, to promote economic and social development world wide, especially that of countries seeking to revitalize or develop their economies,

Recognizing that the prevention and avoidance of corrupt practices could be an important element in an improved international business environment, and could also enhance fairness and competitiveness in transnational business transactions for the benefit also of the general public,

Bearing in mind the substantial progress made by the Committee on an International Agreement on Illicit Payments in the formulation of an agreement, 3/

Considering that renewed efforts towards the conclusion of such an agreement would greatly facilitate the establishment of international standards for the prevention and avoidance of corrupt practices and would help strengthen international cooperation in that respect,

Requests the Secretary-General to study ways and means of concluding discussions on a draft agreement on illicit payments, and to report thereon to the Economic and Social Council at its second regular session of 1991.

1/ General Assembly resolution S-18/3, annex.

2/ General Assembly resolution 45/199, annex.

3/ See E/1979/104.

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WORK RELATED TO THE CODE OF CONDUCT ON TRANSNATIONAL CORPORATIONS AND OTHER INTERNATIONAL ARRANGEMENTS AND AGREEMENTS: OTHER INTERNATIONAL, REGIONAL AND BILATERAL ARRANGEMENTS AND AGREEMENTS RELATED TO TRANSNATIONAL CORPORATIONS

Corrupt practices in international business transactions

Romania and United States of America: revised draft resolution

The Commission on Transnational Corporations,

Recalling General Assembly resolution 3514 (XXX) of 15 December 1975, in which the Assembly, inter alia, condemned all corrupt practices, including bribery, by transnational corporations and other corporations, their intermediaries and others involved, in violation of the laws and regulations of host countries, reaffirmed the right of any State to adopt legislation and to investigate and take appropriate legal action, in accordance with its national laws and regulations, for such corrupt practices, and called upon all Governments to cooperate to prevent corrupt practices, including bribery,

Recalling also Economic and Social Council resolution 1913 (LVII) of 5 December 1974, by which the Council decided to establish the Commission and the Centre on Transnational Corporations to act, inter alia, to secure effective international arrangements within their mandate,

Recalling further the Declaration on International Economic Cooperation, in particular the Revitalization of Economic Growth and Development of the Developing Countries, adopted by the General Assembly at its eighteenth

special session, 1/ and the International Development Strategy for the Fourth United Nations Development Decade, 2/

Convinced that a stable and predictable environment for international business transactions is essential for the mobilization of investment, finance, technology, skills and other important resources across national borders, to promote economic and social development world wide, especially that of countries seeking to revitalize or develop their economies,

Recognizing that the prevention and avoidance of corrupt practices could be an important element in an improved international business environment, and could also enhance fairness and competitiveness in transnational business transactions for the benefit also of the general public,

Bearing in mind the substantial progress that has been made, for example, by the Committee on an International Agreement on Illicit Payments as of 1979, in the formulation of an international agreement on illicit payments, 3/ and that further activities are necessary for the prevention and avoidance of corrupt practices which would help strengthen international cooperation in that respect,

Bearing in mind General Assembly resolution 45/186 of 21 December 1990 concerning the draft code of conduct on transnational corporations,

Requests the Secretary-General to prepare a report on the status of United Nations efforts to address the issue of corrupt practices in international business transactions and to circulate it to Member States for the second regular session of the Economic and Social Council of 1991 in time for the ongoing consultations towards a final agreement on the draft code of conduct on transnational corporations, called for by the General Assembly in resolution 45/186, as an important contribution to that process.

1/ General Assembly resolution S-18/3, annex.

2/ General Assembly resolution 45/199, annex.

3/ See E/1979/104.

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RECENT DEVELOPMENTS RELATED TO TRANSNATIONAL CORPORATIONS AND INTERNATIONAL ECONOMIC RELATIONS

TRANSNATIONAL CORPORATIONS AND ISSUES RELATING TO THE ENVIRONMENT, INCLUDING THE CONTRIBUTION OF THE COMMISSION AND THE UNITED NATIONS CENTRE ON TRANSNATIONAL CORPORATIONS TO THE WORK OF THE PREPARATORY COMMITTEE FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

ROLE OF TRANSNATIONAL CORPORATIONS IN SERVICES, INCLUDING TRANSNATIONAL BANKS

ONGOING AND FUTURE RESEARCH

STRENGTHENING THE NEGOTIATING CAPACITY OF DEVELOPING COUNTRIES IN THEIR DEALINGS WITH TRANSNATIONAL CORPORATIONS

COMPREHENSIVE INFORMATION SYSTEMS

ACTIVITIES OF THE UNITED NATIONS CENTRE ON TRANSNATIONAL CORPORATIONS

Ghana*: draft resolution

The Commission on Transnational Corporations recommends to the Economic and Social Council the adoption of the following draft resolution:

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* On behalf of the States Members of the United Nations that are members of the Group of 77.

Recommendations of the Commission on Transnational Corporations at its seventeenth session and its contribution to the preparatory process of the United Nations Conference on Environment and Development

The Economic and Social Council,

A

1. Takes note with appreciation of the reports of the Secretary-General on recent developments related to transnational corporations and international economic relations, 1/ the role of transnational corporations in services, including transnational banks, 2/ ongoing and future research, 3/ strengthening the negotiating capacity of developing countries in their dealings with transnational corporations, 4/ comprehensive information systems, 5/ and the activities of the United Nations Centre on Transnational Corporations; 6/

2. Requests the Secretary General to prepare a comprehensive annual report analysing the latest trends in foreign direct investments and their impact on developing countries, which would include, inter alia:

(a) Ways of helping developing countries to attract and benefit from foreign direct investments for their growth and development;

(b) Assessment of the role of transnational corporations in regional and subregional integration processes among developing countries;

(c) The contribution of transnational corporations in complementing domestic investment in developing countries, particularly in the least developed countries, with a view to the eradication of poverty, employment generation, human resources development, infrastructure building and, in general, enhancement of the quality of lives of people;

(d) Recent trends in transnational corporation activities in relation to international trade, technology sharing with developing countries, and financial flows, particularly in the solution of external debt problems;

1/ E/C.10/1991/2.

2/ E/C.10/1991/4, E/C.10/1991/5 and E/C.10/1991/6.

3/ E/C.10/1991/7

4/ E/C.10/1991/13.

5/ E/C.10/1991/14.

6/ E/C.10/1991/15.

(e) Recommendations to encourage developed countries to adopt policies that may give incentives for transnational corporations to invest in developing countries;

(f) The role of transnational corporations in services;

(g) The general impact on availability of resources for developing countries of current flows of foreign direct investment towards the economies of Eastern Europe, in the short and medium terms;

3. Requests the Secretary-General to prepare an in-depth report on the efforts of the home countries of transnational banks, in formulating and implementing policies, regulations and measures, to facilitate the reduction of external debt and service of developing countries, taking into account the various proposals made by developing and developed countries with a view to finding a durable solution to the debt problem;

4. Requests the United Nations Centre on Transnational Corporations to include in its technical cooperation activities, the promotion of interregional, intraregional and subregional economic integration, including the possibilities and potentialities of strengthening cooperation among developing countries through the transfer of technology developed by the national corporations from those countries;

5. Stresses the importance of ensuring that the technical cooperation activities of the United Nations Centre on Transnational Corporations will benefit developing countries on an equal basis, and requests it to continue its efforts to develop its programme of support for cooperative activities of small and medium-sized enterprises in developing countries, as well as programmes for training and advisory projects directed to enhancing the capacities of developing countries to protect their interests and properly benefit from the activities of transnational corporations and joint venture schemes; and it further requests an evaluation report on this subject to be submitted to the commission at its eighteenth session;

6. Requests the Secretary-General to establish a fund, financed by voluntary contributions from transnational corporations to provide financial resources for, inter alia, environmental projects in the developing countries;

7. Recognizes the need for the United Nations Centre on Transnational Corporations to diversify its funding modalities and research activities, and to this end, requests the Secretary-General to mobilize resources from various sources, including Governments and non-governmental organizations, and to inform the Commission at its eighteenth session;

B

8. Takes note with appreciation of the reports of the Secretary-General

on transnational corporations and issues relating to the environment 7/ and requests the Secretary General to transmit them to the Secretary-General of the United Nations Conference for Environment and Development together with the views expressed by the members of the Commission at its seventeenth session with a view to making them available for consideration by the Preparatory Committee for the Conference at its third session;

9. Recommends that starting at its third session the Preparatory Committee for the Conference should consider, inter alia, the following issues:

(a) Specific responsibilities of transnational corporations for sustainable development management during the 1990s and beyond, encompassing the following features:

(i) An increase in the level of commitment of transnational corporations to environmental protection in all countries;

(ii) The positive role that transnational corporations can play in the protection of the environment through an increase of investment in and generation of environmentally benign technologies, processes and products;

(iii) Compliance by transnational corporations with internationally agreed environmental conventions, standards and guidelines;

(iv) a. Expansion of research and development by transnational corporations and their affiliates on environmentally sound technologies;

b. Assured access by affiliates to environmentally sound technologies and information thereon without supplemental internal charges;

c. Access by host country firms to environmentally sound technologies used by the affiliates of transnational corporations in developing countries;

(v) Maintenance by transnational corporations and their affiliates of consistent environmental, health and safety standards for products, processes and services, in order to ensure equivalent levels of safety for all workers, communities and consumers;

(b) Submission by transnational corporations, as a component of the international review of environmental issues since the Stockholm Conference, of reports on the state of the environment and development, based on the activities of their firms and/or their trade associations;

7/ E/C.10/1991/3 and Add.1.

(c) Rigorous implementation of the "polluter pays" principle for transnational corporations and their affiliates, containing at a minimum the following obligations;

(i) Prevention of any potential environmental damage that could arise from their activities, the cost of such prevention to be regarded as normal business cost;

(ii) Liability of the enterprise concerned to repair the damage wherever it occurs, including its ensuing negative after-effects;

(iii) Payment of appropriate compensation by the enterprise where such damage is not repaired to the full satisfaction of the affected country or countries;

(d) Acceptance of full liability by transnational corporations for any damage to life and property resulting from its activities or that of its affiliates and prompt payment of full and adequate compensation where such damage occurs;

(e) Establishment of internationally agreed standards and instruments aimed at the development of environmental management policies and programmes by transnational corporations, and at ensuring that the degree of safety of new installations employing transferred technology should not represent an additional burden for the economies of the developing countries nor constitute new barriers for access to and transfer of technology and, in all cases, should take into account the special needs of these countries;

10. Requests the Executive Director of the United Nations Centre on Transnational Corporations to transmit the findings of the research project on "Transfer of environmentally sound technologies to developing countries on favourable terms" and the prototype financial statements that would enable corporations to report their income and profits on a sustainable basis to the Secretary-General of the United Nations Conference on Environment and Development before the third session of the Preparatory Committee of the Conference;

11. Requests the Secretary-General to transmit part B of the present resolution to the Secretary-General of the Conference before the third session of the Preparatory Committee, as the substantive contribution of the Commission to the work of the Preparatory Committee.

UNITED NATIONS

E

Economic and Social Council

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22 April 1991

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COMMISSION ON TRANSNATIONAL CORPORATIONS
Seventeenth session
10-19 April 1991
Agenda items 3, 4, 5, 6, 10, 11 and 12

RECENT DEVELOPMENTS RELATED TO TRANSNATIONAL CORPORATIONS AND INTERNATIONAL ECONOMIC RELATIONS

TRANSNATIONAL CORPORATIONS AND ISSUES RELATING TO THE ENVIRONMENT, INCLUDING THE CONTRIBUTION OF THE COMMISSION AND THE UNITED NATIONS CENTRE ON TRANSNATIONAL CORPORATIONS TO THE WORK OF THE PREPARATORY COMMITTEE FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

ROLE OF TRANSNATIONAL CORPORATIONS IN SERVICES, INCLUDING TRANSNATIONAL BANKS

ONGOING AND FUTURE RESEARCH

STRENGTHENING THE NEGOTIATING CAPACITY OF DEVELOPING COUNTRIES IN THEIR DEALINGS WITH TRANSNATIONAL CORPORATIONS

COMPREHENSIVE INFORMATION SYSTEMS

ACTIVITIES OF THE UNITED NATIONS CENTRE ON TRANSNATIONAL CORPORATIONS

Ghana*: revised draft resolution

The Commission on Transnational Corporations recommends to the Economic and Social Council the adoption of the following draft resolution:

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* On behalf of the States Members of the United Nations that are members of the Group of 77.

Recommendations of the Commission on Transnational Corporations at its seventeenth session and its contribution to the preparatory process of the United Nations Conference on Environment and Development

The Economic and Social Council

A

1. Takes note of the reports of the Secretary-General on recent developments related to transnational corporations and international economic relations, 1/ the role of transnational corporations in services, including transnational banks, 2/ ongoing and future research, 3/ strengthening the negotiating capacity of developing countries in their dealings with transnational corporations, 4/ the comprehensive information system, 5/ and the activities of the United Nations Centre on Transnational Corporations; 6/

2. Requests the Secretary-General to prepare for the eighteenth session of the Commission on Transnational Corporations a consolidated report analysing the latest trends in foreign direct investments in the world economy, in particular, their impact on developing countries, which would include, inter alia:

(a) Ways of enhancing the benefit to developing countries of foreign direct investments;

(b) Assessment of the role of transnational corporations in regional and subregional integration processes among developing countries;

(c) The contribution of transnational corporations in complementing domestic investment in developing countries, particularly in the least developed countries, with a view to the eradication of poverty, employment generation, human resources development, infrastructure building and, in general, the enhanced quality of life of peoples;

(d) The recent trends in transnational corporation activities in relation to international trade, transfer of technology to developing countries, financial flows, and external debt;

1/ E/C.10/1991/2.

2/ E/C.10/1991/4, E/C.10/1991/5 and E/C.10/1991/6.

3/ E/C.10/1991/7.

4/ E/C.10/1991/13.

5/ E/C.10/1991/14.

6/ E/C.10/1991/15.

(e) Recommendations to encourage developed countries to adopt policies that may give incentives to transnational corporations to invest in developing countries;

(f) The role of transnational corporations in services;

(g) The general impact on availability of resources for developing countries of current flows of foreign direct investment towards the economies of Eastern Europe, in the short and medium terms;

3. Also requests the Secretary-General to prepare a report on the efforts of the home countries of transnational banks to facilitate the reduction of external debt and service of developing countries, taking into account the various proposals made by developing and developed countries with a view to finding a durable solution to the debt problem;

4. Requests the Centre to include in its technical cooperation activities the promotion of interregional, intraregional and subregional economic integration, including the possibilities and potentialities of strengthening cooperation among developing countries through the transfer of technology developed by national corporations from those countries;

5. Stresses the importance of ensuring that the technical cooperation activities of the Centre will benefit developing countries on an equal basis and requests the Centre to continue its efforts to develop its programme of support for cooperative activities of small and medium-sized enterprises in developing countries, as well as training programmes and advisory projects directed towards enhancing the capacities of developing countries to protect their interests and properly benefit from the activities of transnational corporations and joint venture schemes, and requests an evaluation report on this subject to be submitted to the Commission at its eighteenth session;

6. Requests the Secretary-General to consider the feasibility of establishing a fund for voluntary contributions, financial or in kind, from transnational corporations, as well as other ways of mobilizing such contributions for the purpose of protecting and enhancing the environment;

7. Recognizes the need for the Centre to diversify the sources of funding for research and technical cooperation activities and, to this end, invites donors to contribute to the Centre's trust fund for technical cooperation, and requests the Secretary-General to seek to mobilize resources from various sources, including non-governmental organizations, and to report to the Commission, at its eighteenth session;

B

8. Takes note of the reports of the Secretary-General on transnational corporations and issues relating to the environment 7/ and requests the Secretary-General to transmit those reports to the Secretary-General of the United Nations Conference on Environment and Development together with the views expressed by members of the Commission at its seventeenth session with a view to making both reports and views available for consideration by the Preparatory Committee for the Conference at its third session;

9. Reaffirms that the following issues, inter alia, will have to be properly dealt with in order to encourage and mobilize the cooperation of transnational corporations for the management of the environment to ensure its protection and enhancement in all countries, in accordance with General Assembly resolution 44/228 of 22 December 1989:

(a) Specific responsibilities of large industrial enterprises, including transnational corporations, for sustainable development management during the 1990s and beyond, encompassing the following features:

(i) The commitment of transnational corporations to environmental protection in all countries;

(ii) The positive role that transnational corporations can play in the protection of the environment, inter alia, through the improved management and regulation of industrial processes and investment in and generation of environmentally benign technologies and processes;

(iii) Observance by transnational corporations of internationally agreed environmental standards and guidelines;

(iv) Research and development by transnational corporations and their affiliates in the area of environmentally sound technologies;

(v) Intra-firm access to environmentally sound technologies and to information thereon and cooperation between transnational corporations and host country firms in the use of environmentally sound technologies, in particular the developing countries;

(vi) Application of corporate world-wide environment and development policies consistent with the laws and regulations of host Governments;

7/ E/C.10/1991/3 and Add.1.

(vii) Maintenance by transnational corporations and their affiliates of consistent and higher enviromental, health and safety standards for products, processes and services, in order to reach equivalent levels of safety for all workers, communities and consumers;

(viii) Environment and development reporting by transnational corporations;

(ix) Implementation of the "polluter pays" principle, preventive action at the source, a precautionary approach to environment and development issues, and determination of the liability of transnational corporations;

(b) Liability of transnational corporations for any damage to life and property resulting from their own activities or the activities of their affiliates and prompt payment of full and adequate compensation where such damage occurs;

(c) Establishment of internationally agreed standards and guidelines aimed at the development by transnational corporations of environmental management policies and programmes, as well as the further development of criteria for environmental management, to ensure that the degree of safety required in new installations employing transferred technology should not create an additional burden for the economies of developing countries or new barriers to access to and transfer of technology but should, in all cases, take into account the special needs of those countries;

(d) Policies of host Governments in providing an appropriate framework for contributions by transnational corporations to sustainable development;

10. Recommends that a resumed session of the Commission be held for two days in January 1992 in order to consider operational principles and proposals for action aimed at the encouragement and mobilization of the cooperation of transnational corporations for the management of the environment to ensure its protection and enhancement in all countries;

11. Requests the Executive Director of the United Nations Centre on Transnational Corporations to prepare drafts of operational principles and proposals for action based on the views expressed by Governments during the seventeenth session of the Commission on Transnational Corporations, taking into account the views expressed by the Preparatory Committee of the United Nations Conference on Environment and Development at its third session and after extensive consultations with transnational corporations from all regions of the world;

12. Also requests the Executive Director of the Centre to transmit the findings of the research project on "Transfer of environmentally

sound technologies to developing countries on favourable terms" and the prototype financial statements that would enable corporations to report their income and profits on a sustainable basis to the Secretary-General of the United Nations Conference on Environment and Development before the third session of the Preparatory Committee of the Conference;

13. Requests the President of the Economic and Social Council to transmit part B of the present resolution to the Chairman of the Preparatory Committee of the United Nations Conference on Environment and Development as the substantive contribution of the Commission to the work of the Preparatory Committee at its third session.

UNITED
NATIONS

E

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17 April 1991

ORIGINAL: ENGLISH

COMMISSION ON TRANSNATIONAL
CORPORATIONS
Seventeenth session
10-19 April 1991
Agenda item 13

DRAFT PROVISIONAL AGENDAS FOR THE EIGHTEENTH AND NINETEENTH SESSIONS OF THE COMMISSION

Note by the Secretariat

In accordance with Economic and Social Council resolution 1894 (LVII), the following draft provisional agendas have been prepared on the basis of existing legislative authority. The draft provisional agenda for the eighteenth and nineteenth sessions of the Commission will be completed at the present session in the light of resolutions and decisions adopted by the Commission and will be submitted to the Economic and Social Council for review, in accordance with Council resolution 1979/41.

PROPOSED AGENDA FOR THE EIGHTEENTH SESSION

1. Election of officers.

2. Adoption of the agenda and organizational matters.

3. General discussion on transnational corporations in the world economy and trends in foreign direct investment to developing countries.

   Documentation

   Reports of the Secretary-General

4. Transnational corporations and the environment.

   Documentation

   Report of the Secretary-General

5. Transnational corporations in South Africa.

   Documentation

   Reports of the Secretary-General

6. International arrangements and agreements relating to transnational corporations.

   Documentation

   Report of the Secretary-General

7. Activities of the United Nations Centre on Transnational Corporations and its joint units.

   Documentation

   Report of the Secretary-General on the activities of the United Nations Centre on Transnational Corporations

   Report of the Secretary-General on experience gained in technical cooperation

   Report of the Secretary-General on information activities

   Report of the Intergovernmental Working Group on International Standards of Accounting and Reporting on its tenth session

8. Provisional agenda for the nineteenth session of the Commission.

9. Adoption of the report of the Commission on its eighteenth session.

PROPOSED AGENDA FOR THE NINETEENTH SESSION

1. Election of officers.

2. Adoption of the agenda and organizational matters.

3. General discussion on transnational corporations in the world economy and trends in foreign direct investment to developing countries.

   Documentation

   Reports of the Secretary-General

4. Role of transnational corporations in newly opened economies.

   Documentation

   Report of the Secretary-General

5. Transnational corporations in services, including banking.

   Documentation

   Reports of the Secretary-General

6. International, regional and bilateral arrangements and agreements relating to transnational corporations.

   Documentation

   Report of the Secretary-General

7. Activities of the United Nations Centre on Transnational Corporations and its joint units.

   Documentation

   Report of the Secretary-General on the activities of the United Nations Centre on Transnational Corporations

   Report of the Secretary-General on experience gained in technical cooperation

   Report of the Secretary-General on information activities

   Report of the Intergovernmental Working Group on International Standards of Accounting and Reporting on its eleventh session

8. Provisional agenda for the twentieth session of the Commission.

9. Adoption of the report of the Commission on its nineteenth session.

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E/C.10/1991/L.8
8 May 1991

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COMMISSION ON TRANSNATIONAL
CORPORATIONS
Seventeenth session
10-19 April 1991
Agenda item 7 (b)

WORK RELATED TO THE CODE OF CONDUCT ON TRANSNATIONAL CORPORATIONS AND OTHER INTERNATIONAL ARRANGEMENTS AND AGREEMENTS: OTHER INTERNATIONAL, REGIONAL AND BILATERAL ARRANGEMENTS AND AGREEMENTS RELATED TO TRANSNATIONAL CORPORATIONS

Corrupt practices in international business transactions

Draft resolution submitted by the Vice-Chairman of the Commission, Mr. Ole Kristian Holthe (Norway), on the basis of informal consultations held on draft resolution E/C.10/1991/L.5/Rev.1

The Commission on Transnational Corporations,

Recalling General Assembly resolution 3514 (XXX) of 15 December 1975, in which the Assembly, inter alia, condemned all corrupt practices, including bribery, by transnational corporations and other corporations, their intermediaries and others involved, in violation of the laws and regulations of host countries, reaffirmed the right of any State to adopt legislation and to investigate and take appropriate legal action, in accordance with its national laws and regulations, for such corrupt practices, and called upon all Governments to cooperate to prevent corrupt practices, including bribery,

Recalling also Economic and Social Council resolution 1913 (LVII) of 5 December 1974, by which the Council decided to establish the Commission and the Centre on Transnational Corporations to act, inter alia, to secure effective international arrangements within their mandate,

Recalling further the Declaration on International Economic Cooperation, in particular the Revitalization of Economic Growth and Development of the Developing Countries, adopted by the General Assembly at its eighteenth

special session, 1/ and the International Development Strategy for the Fourth United Nations Development Decade, 2/

Convinced that a stable and predictable environment for international business transactions is essential for the mobilization of investment, finance, technology, skills and other important resources across national borders, to promote economic and social development world wide, especially that of countries seeking to revitalize or develop their economies,

Recognizing that the prevention and the avoidance of corrupt practices are important elements in an improved international business environment, and that they enhance fairness and competitiveness in transnational business transactions for the benefit also of the general public,

Bearing in mind work undertaken in the Committee on an International Agreement on Illicit Payments as of 1979 in the formulation of an agreement, 3/ and that further activities are necessary for the prevention and avoidance of corrupt practices which would help strengthen international cooperation in that respect,

Bearing in mind General Assembly resolution 45/186 of 21 December 1990 concerning the draft code of conduct on transnational corporations,

Requests the Secretary-General to prepare a report on the status of United Nations efforts to address the issue of corrupt practices in international business transactions and to circulate it to Member States for the second regular session of the Economic and Social Council of 1991 in time for the ongoing consultations towards a final agreement on the draft code of conduct on transnational corporations, called for by the General Assembly in resolution 45/186, as an important contribution to that process.

1/ General Assembly resolution S-18/3, annex.

2/ General Assembly resolution 45/199, annex.

3/ See E/1979/104.

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9 May 1991

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COMMISSION ON TRANSNATIONAL CORPORATIONS
Seventeenth session
10-19 April and 7 and 10 May 1991
Agenda items 3, 4, 5, 6, 10, 11 and 12

RECENT DEVELOPMENTS RELATED TO TRANSNATIONAL CORPORATIONS AND INTERNATIONAL ECONOMIC RELATIONS

TRANSNATIONAL CORPORATIONS AND ISSUES RELATING TO THE ENVIRONMENT, INCLUDING THE CONTRIBUTION OF THE COMMISSION AND THE UNITED NATIONS CENTRE ON TRANSNATIONAL CORPORATIONS TO THE WORK OF THE PREPARATORY COMMITTEE FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

ROLE OF TRANSNATIONAL CORPORATIONS IN SERVICES, INCLUDING TRANSNATIONAL BANKS

ONGOING AND FUTURE RESEARCH

STRENGTHENING THE NEGOTIATING CAPACITY OF DEVELOPING COUNTRIES IN THEIR DEALINGS WITH TRANSNATIONAL CORPORATIONS

COMPREHENSIVE INFORMATION SYSTEMS

ACTIVITIES OF THE UNITED NATIONS CENTRE ON TRANSNATIONAL CORPORATIONS

Draft resolution submitted by the Vice-Chairman of the Commission, Mr. José Lino B. Guerrero (Philippines), on the basis of informal consultations held on draft resolution E/C.10/1991/L.6/Rev.1

The Commission on Transnational Corporations recommends to the Economic and Social Council the adoption of the following draft resolution:

Recommendations of the Commission on Transnational Corporations at its seventeenth session and its contribution to the preparatory process of the United Nations Conference on Environment and Development

The Economic and Social Council

A

1. Takes note of the reports of the Secretary-General on recent developments related to transnational corporations and international economic relations, 1/ the role of transnational corporations in services, including transnational banks, 2/ ongoing and future research, 3/ strengthening the negotiating capacity of developing countries in their dealings with transnational corporations, 4/ the comprehensive information system, 5/ and the activities of the United Nations Centre on Transnational Corporations; 6/

2. Requests the Secretary-General to prepare for the eighteenth session of the Commission on Transnational Corporations, drawing upon the ongoing work of the Centre, a consolidated report analysing the latest trends in foreign direct investments in the world economy, in particular, their impact on developing countries, which would include, inter alia:

(a) Ways of enhancing the benefit to developing countries of foreign direct investments;

(b) Assessment of the role of transnational corporations in regional and subregional integration processes among developing countries;

(c) The contribution of transnational corporations in complementing domestic investment in developing countries, particularly in the least developed countries, with a view to the eradication of poverty, employment generation, human resources development, infrastructure building and, in general, the enhanced quality of life of peoples, taking account of the importance of national policies;

1/ E/C.10/1991/2.

2/ E/C.10/1991/4, E/C.10/1991/5 and E/C.10/1991/6.

3/ E/C.10/1991/7.

4/ E/C.10/1991/13.

5/ E/C.10/1991/14.

6/ E/C.10/1991/15.

(d) The recent trends in transnational corporation activities in relation to international trade, transfer of technology to developing countries, financial flows and external debt;

(e) The role that incentives and removal of disincentives in home and host countries can play in encouraging investment by transnational corporations, particularly in developing countries;

(f) The role of transnational corporations in services, especially through foreign direct investment;

(g) The significance of recent trends in the activities of transnational corporations in Central and Eastern Europe in relation to the general trends of their activities, in particular in developing countries;

3. Also requests the Secretary-General to update and complete the work undertaken by the Centre related to the external indebtedness of developing countries, taking into account the relevant resolutions of the General Assembly, and to submit a report thereon to the Commission at its nineteenth session;

4. Requests the Centre to include in its technical cooperation activities consideration of, advice on and promotion, as appropriate, of interregional, intraregional and subregional economic integration, including the possibilities and potentialities of strengthening cooperation among developing countries through the transfer of technology developed by national corporations from those countries;

5. Stresses the importance of ensuring that the technical cooperation activities of the Centre will benefit developing countries on an equal basis and requests the Centre to continue its efforts to develop its programme of support for cooperative activities of small- and medium-sized enterprises in developing countries, as well as training programmes and advisory projects directed towards enhancing the capacities of developing countries to enhance and promote their interests and properly benefit from the activities of transnational corporations and joint venture schemes, and requests an evaluation report on this subject to be submitted to the Commission at its eighteenth session;

6. Requests the Secretary-General, taking into account the provisions contained in General Assembly resolution 44/228 of 22 December 1989 on the role of large industrial enterprises, including transnational corporations, in protecting and enhancing the environment, to examine, in consultation with the international business community in the context of various modalities for mobilizing resources for this purpose, the feasibility of establishing mechanisms for financial or in-kind contributions;

7. Recognizes the need for the Centre to diversify sources of funding for research and technical cooperation activities and, to this end, invites donors to contribute to the Centre's trust fund for technical cooperation, and requests the Secretary-General to seek to mobilize resources from various

sources, including non-governmental organizations, and to report to the Commission at its eighteenth session;

B

8. Takes note of the reports of the Secretary-General on transnational corporations and issues relating to the environment 7/ and requests the Secretary-General to transmit those reports to the Secretary-General of the United Nations Conference on Environment and Development together with the views expressed by members of the Commission at its seventeenth session with a view to making both reports available for consideration by the Preparatory Committee of the Conference at its third session;

9. Reaffirms that the following issues, inter alia, should be addressed, consistent with General Assembly resolution 44/228, in order to encourage and mobilize industrial enterprises, including transnational corporations, to cooperate in efforts to protect and enhance the environment in all countries:

(a) Their commitment to environmental protection in all countries;

(b) The positive role that they can play in the protection of the environment, inter alia, through the promotion of improved management and regulation of industrial processes and investment in and generation and dissemination of environmentally benign technologies and processes;

(c) Their observance of government-agreed international environmental standards and industry-agreed guidelines;

(d) The positive role played by increased research and development activities in the area of environmentally sound technologies;

(e) Access to environmentally sound technologies and to information thereon and cooperation between transnational corporations and host country firms, in particular those in developing countries, in the use of environmentally sound technologies;

(f) Application of corporate world-wide environment and development policies, including ways of encouraging industry to apply standards of environmental responsibility to their foreign operations that are comparably high to those used in their home countries, consistent with the laws and regulations of host countries;

(g) Consistent and high environmental, health and safety standards for products, processes and services, as a contribution towards reaching equivalent levels of safety for all workers, communities and consumers;

(h) Environment and development accounting and reporting;

7/ E/C.10/1991/3 and Add.1.

(i) Consideration of responsibilities and of such principles as the "polluter pays", preventive action at the source, precautionary approach to environment and development issues, and to minimizing the risks to human life, health, property and the environment, as well as restoration of damage;

(j) The incorporation of environmental concerns into their activities which should be consistent with the economic policies and development needs of developing countries and should not create new barriers to access to and transfer of technology;

(k) Cooperation with industry in producing guidelines aimed at the development of environmental management policies and programmes, as well as the further development of criteria for environmental management;

(l) The role of Governments and of international cooperation in providing an appropriate framework for contributions by transnational corporations to sustainable development;

10. Requests the Executive Director of the United Nations Centre on Transnational Corporations, after extensive consultations with international business organizations and other relevant bodies, to prepare recommendations, within its mandate, on cooperation for protection and enhancement of the environment in all countries, taking into account the work undertaken by the Centre and elsewhere, taking into account also the views expressed by Governments during the seventeenth session of the Commission on Transnational Corporations and, further, the views expressed by the Preparatory Committee of the United Nations Conference on Environment and Development at its third session, in order that they may be considered by the Commission on Transnational Corporations as well as by the Preparatory Committee;

11. Decides to consider at its second regular session of 1991 ways in which the recommendations may best be brought to the attention of the Preparatory Committee in good time for its fourth session, taking into account any proposals of the Secretary-General;

12. Also requests that the findings of the Executive Director of the Centre in the research project, "Transfer of environmentally sound technologies to developing countries on favourable terms", and the prototype financial statements that would enable corporations to report their income and profits on a sustainable basis, be transmitted to the Secretary-General of the United Nations Conference on Environment and Development for consideration by the Preparatory Committee of the United Nations Conference on Environment and Development at its third session;

13. Requests the President of the Economic and Social Council to transmit part B of the present resolution to the Chairman of the Preparatory Committee of the United Nations Conference on Environment and Development as the substantive contribution of the Commission to the work of the Preparatory Committee of the United Nations Conference on Environment and Development at its third session.